



**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended subsequent to that review.**

All responses should be in **bold** format.

Document(s) Reviewed (include title):

**WAC 458-30-200: Definitions**

Date last reviewed: **12/23/99**

Reviewer: **Kim M. Qually**

Date current review completed: **5/27/05**

Briefly explain the subject matter of the document(s):

**The intent and purpose of WAC 458-30-200 is to provide definitions of the terminology used in administering the open space taxation act, otherwise known as the current use program. Some of the terms listed originate from the statutes of chapter 84.34 RCW and others are the result of inquiries received from local taxing officials and taxpayers.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs:**

YES	NO	
<b>X</b>		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed?



X		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**RCW 84.34.020 - "Definitions" - has been amended several times since the rule was last reviewed and these changes should be incorporated in the rule:**

- 2005 c 57 s 1 - "farm and ag land" refined to include wholesale of donated ag products;
- 2004 c 217 s 1 & 2002 c 315 s 1 - "timber land" was redefined; and
- 2001 c 249 s 12(2) - grammatical and stylistic not substantive changes made.

**Ricky Spring v. Klickitat County Assessor, Docket No. 60610 (2004) - discusses definition of “commercial agricultural purposes” and whether it requires the property to be actively used for commercial agricultural purposes. Distinction drawn by BTA should be incorporated.**

**3. Additional information:** Identify any additional issues that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

**Any additional issues: undetermined at present but will consult with Property Tax division.**

**The current format of the rule is fine.**

**4. Listing of documents reviewed:**

Statute(s) Implemented:

**Chapter 84.34 RCW: “Open Space, Agricultural, Timber Lands – Current Use – Conservation Futures” in general and more specifically:**

**RCW 84.34.020: “Definitions” - amended by 2005 c 57 s1; 2004 c 217 s 1; 2002 c 315 s 1; and 2001 c 249 s 12;**

**RCW 84.34.065: “Determination of true and fair value of farm and agricultural land – Computation - Definitions; and**

**RCW 84.34.108: “Removal of classification – Factors – Notice of continuance – Additional tax – Lien – Delinquencies – Exemptions.**

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs): **None**



Court Decisions: **None**

Board of Tax Appeals Decisions (BTAs):

**John G. Gehlen v. Yakima County Assessor**, Docket Nos. 60196 and 60197 (2004) - removal from farm and ag classification - meaning of "commercial agricultural purposes"

**Ricky Spring v. Klickitat County Assessor**, Docket No. 60610 (2004) - discusses definition of "commercial agricultural purposes" and whether it requires the property to be actively used for commercial agricultural purposes. The "continuous and regular use" of the property is what demonstrates the owner's or lessee's intention to obtain income from commercial agricultural use of the property. The Owner's intent to use the property in the future, as stated on the Owner's farm management plan, must be balanced by the actual use of the property.

**Robert B. Barnes v. Thurston County Assessor**, Docket No. 58063 - discusses whether definition of "commercial agricultural purposes" includes the value of ag products donated to charity. The donations by Owner are not receipts of cash income but are properly characterized as products consumed by the Owner. The agricultural products were removed from inventory for commercial sale by the Owner and then gifted by him to his church.

**Michael Smith and Kathleen Smith v. Clallam County Assessor**, Docket Nos. 56513 & 56514 (2002) - briefly discusses definition of "parcel of land" and whether it includes a public right-of way

**Jean R. Mendoza and Pablo Mendoza v. Yakima County Assessor**, Docket No. 59757 (2003) - removal - assessor failed to follow removal process

**Donnie A. Smith v. Douglas County Assessor**, Docket No. 59443 (2003) - removal - commercial agricultural purposes - actual vs. active use.

**Donald G. Peake, v. San Juan County Assessor**, Docket No. 58738 (2002) - removal - failure to show proof of farm and ag income - intended vs. actual use

**Crosier Orchards, Inc. v. Yakima County Assessor**, Docket No. 55046 (2000) - removal - owners intention to reestablish ag activity doesn't satisfy commercial activity requirement

**Douglas County Assessor v. Jessie V. Sarto**, Docket No. 54761 (2000) - removal - intention to continue farm and ag use insufficient to satisfy requirement of commercial ag purposes

Appeals Division Decisions (WTDs): **None**

Attorney General Opinions (AGOs): **None**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

## **5. Review Recommendation:**



- ☒ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☐ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:**

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

**WAC 458-30-200 needs to be amended to included statutory changes made since the rule was last adopted. Portions of the analysis and conclusions made by the BTA should be evaluated for inclusion in the rule.**

**6. Manager action: Date: June 1, 2005**

☐AL ☐ Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

- ☐ 1  
☒ 2  
☐ 3  
☐ 4